

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Appeal against Order No.18 of 2016
(Shamiullakha s/o Amanatkhan Pathan and others v. Khwaja Moinuddin
Sheikh Ayat and another)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri N.R. Bhishikar, Advocate for Appellants.
Shri R.R. Dawda, Advocate for Respondent No.1.
Shri A.M. Ghare, Advocate for Respondent No.2.

Coram : R.K. Deshpande, J.
Date : 14th March, 2016

The Trial Court has dismissed the suit for grant of mandatory and permanent injunction for demolition of the property constructed on the encroached area and restraining the defendants from carrying out the construction over the encroached area. No relief of declaration that the plaintiffs are the owners of the suit property, or that the defendants have encroached upon some portion of their property was asked for. The Trial Court has recorded the finding that there is no encroachment and the construction is being carried out in accordance with the plan sanctioned by the competent authority. The lower Appellate Court, while rejecting the application for injunction, has held that the defendants are carrying out the construction at their own risk without claiming any equity.

No interference is called for in the order impugned in

this appeal.

The appeal is dismissed.

Judge.

Lanjewar